

87-04

January 17, 1989

Ralph O. Hill  
P. O. Box 1290  
San Juan Bautista, CA 95045

5:20  
JAN 19 3 51 PM '89

Fair Political Practices Commission  
4281 J Street Suite 800  
P. O. Box 807  
Sacramento, California 95804

Attn: Legal Division:

I am writing you in regards to a conflict of interest problem. I will try to give you the background for the problem before I present the question.

In Oct. 1988 the City Council of San Juan Bautista drafted a letter of reprimand which accused my wife of improprieties with her position as staff bookkeeper which later were proven unfounded. As their letter stated she should or could be represented by an attorney which she did. The attorney's fees were \$850.00 to represent her in the special personnel session in Dec. 1988. As advised by her attorney she should submit a bill for the fee to the city council for reimbursement.

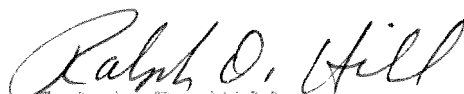
As I am a member of the City Council, this bill was presented to all five members for approval. The payment was challenged by two council members (which caused the action) and one of the other members made a motion to not pay the bill second by the other member. As the vote stands 2 to 2 the Mayor tabled this action till Feb. pending clarification on the conflict of interest.

Question can I vote on this matter?

2nd question if it stands 2 to 2 does this mean that the action dies and the bill be paid or what? Please explain this to me.

Any help you can give me in these matters would be greatly appreciated.

Thank you

  
Ralph O. Hill  
City Councilmember



# California Fair Political Practices Commission

January 24, 1989

Honorable Ralph O. Hill  
Councilmember  
P.O. Box 1293  
San Juan Bautista, CA 95045

Re: Letter No. 89-045

Dear Councilmember Hill:

Your letter requesting advice under the Political Reform Act was received on January 19, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeevan Ahuja an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Kathleen E. Donovan*  
Diane M. Griffiths  
General Counsel

DMG:plh

## Memorandum

To : Our File No. A-89-045

Date : February 9, 1989

From : FAIR POLITICAL PRACTICES COMMISSION  
Jeevan S. Anuja

Subject : Councilmember Ralph O. Hill,  
San Juan Bautista

Mr. Bautista wanted to know if he could vote to approve payment of his wife's legal bill.

I discussed it with John, that pursuant to 18702.1(a)(4), the official's personal expenses, income, assets or liabilities will be affected by at least \$250, since the amount involved is \$850. Therefore he must disqualify himself.

I called Mr. Hill and advised him that he would have to disqualify himself. He said, "Fine."

I then asked him if he needed a letter in writing. He said he did not.

JA:ld:jamemo2

January 17, 1989

Ralph O. Hill  
P. O. Box 1293  
San Juan Bautista, CA 95045

FPPC  
JAN 19 3 41 PM '89

Fair Political Practices Commission  
4281 J Street Suite 800  
P. O. Box 807  
Sacramento, California 95804

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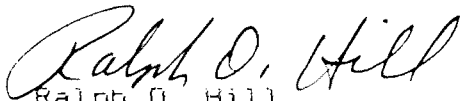
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Thank you

  
Ralph O. Hill  
City Councilmember

ADVICE LETTER # M-88-347 REQUESTER: n/a (internal memo)

This letter was written by: Griffiths

The 21 working-days expires: n/a

However, a response has been requested by: \_\_\_\_\_

Upon review, return to: Patsy

\*\*\*\*\*  
GENERAL COUNSEL:

Kod APPROVED

Comments to Executive Director and Chairman: \_\_\_\_\_

\*\*\*\*\*  
EXECUTIVE DIRECTOR:

SB APPROVED

☒ Without change

☐ See changes noted in letter

General Comments/Thoughts: \_\_\_\_\_

☐ NOT APPROVED

Reasons/Comments: \_\_\_\_\_

\*\*\*\*\*  
CHAIRMAN:

☐ APPROVED

☐ Without change

☐ See changes noted in letter

General Comments/Thoughts: I THINK THERE IS A DIFFERENCE

BEFORE A PERSONAL NOTE & A SIGNED NOTE VIZ. A. VIZ. THE  
AUT. OFFICIALLY SIGNED. ALSO SHOULD BE RELEASE AND ADVISED  
WITH A MEMO OF ADVICE LETTER.

☐ NOT APPROVED

Reasons/Comments: \_\_\_\_\_

# Memorandum

To : Advice File  
Memo No. M-88-347

Date : September 6, 1988

From : Fair Political Practices Commission  
Diane M. Griffiths

Subject: Lobbyist Loans

At a recent enforcement case review meeting, we discussed the attached advice memo (No. M-84-315). In the particular case before us, enforcement action was not commenced in part because of this advice. The meeting participants agreed that this advice should be reconsidered.

I have since circulated the proposal to reverse the conclusion stated in Advice Memo No. M-84-315 to advice request meeting participants for comment. No one has suggested a satisfactory legal basis for distinguishing between an unsecured personal note and a note secured by a second deed of trust.

Based on the foregoing, we will now advise that a note secured by a second deed of trust, like a personal note, is considered to be a personal obligation. Therefore, a lobbyist may not take back a note on sale of his or her residence to a legislator. (Government Code Section 86205(a).)

DMG:plh:LOBLOAN2  
Attachment

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## Memorandum

To : John K.

Date : September 7, 1984

No. M-84-315

From : FAIR POLITICAL PRACTICES COMMISSION  
Carla Wardlow

Subject: Lobbyist Question--Your memo of 8/28

Your memo of August 28 asked me what, if any, prohibitions or disclosure requirements would be involved if a lobbyist sold his or her residence to a legislator and the lobbyist took back a note on the sale for a few years. At yesterday's advice request meeting, it was concluded that:

1. So long as full and adequate consideration is received by the lobbyist, the \$10 gift prohibition would not be violated. However, the lobbyist should be cautioned to take extreme care in seeing that the legislator does not receive anything of more than \$10 in value for which the lobbyist does not receive full and adequate consideration.
2. Government Code Section 86205(a) prohibits a lobbyist from doing anything with the purpose of placing any elected state officer, etc., under personal obligation to him or his employer. Because a note secured by a second deed of trust is not considered to be a personal obligation, it was concluded that specifically with respect to real estate transactions; so long as the note is secured by a second deed of trust (not a personal note), the lobbyist would not be prohibited from making the loan.

With respect to the disclosure requirements, the lobbyist would not be required to disclose the transaction (unless, of course, he makes a gift to the legislator). The legislator must report the lobbyist as a source of income (loan) on his or her Statement of Economic Interests. Depending on the legislator's use of the residence, he or she may also have to report the residence as an interest in real property.

## Memorandum

To : Advice Request Meeting Participants

Date : Sept. 4, 1984

From : FAIR POLITICAL PRACTICES COMMISSION  
Carla Wardlow

Subject: Section 86205(a)--Loan to Legislator

A lobbyist is selling his residence in Sacramento and a legislator wants to purchase it. May the lobbyist take back a note on the sale? Section 86205(a) prohibits a lobbyist from doing anything with the purpose of placing any elected state officer, etc., under personal obligation to him or to his employer.

In the Reinhardt opinion (3 FPPC Ops. 83, No. 76-091), the Commission said that an arrangement between a lobbying firm and a state candidate to provide management or consultant services in exchange for full and adequate consideration "is not the type of arrangement at which the Section is directed. The arrangement does not involve an attempt by the firm or its employees to pervert the normal legislative or administrative processes by means of some illegitimate activity...."



## Memorandum

To : Carlo

Date : 8/28

From : FAIR POLITICAL PRACTICES COMMISSION

jk

Subject: Lobbyist Question

How would you advise a lobbyist who has the following problem?

--The lobbyist owns a house in Sacramento.

--The lobbyist wants to sell the house for the best price possible.

--A member of the Legislature wants to buy the house.

--It's strictly an ~~days~~-length deal, although no broker would be involved. No discounts, no special favors.

--The lobbyist is willing and may have to take back a note on the sale for a few years, which obviously is not an uncommon practice these days.

--What, if any, prohibitions or disclosure requirements would be involved in such a transaction?

8/10/2

Colin's son told me  
that his father, at least for a while,  
~~must~~ reminded him about the  
action. She said that after we  
had given the answer, they  
have not received any other  
similar signals. However, she  
said that nothing more has  
passed from us. I will  
therefore close the file.

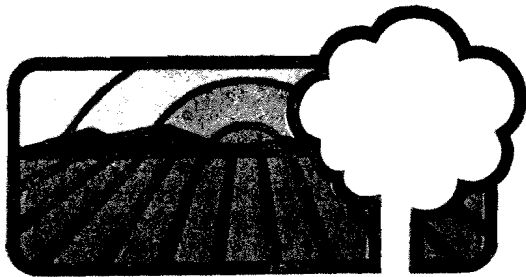
5/24 Telecon w/ Norrine Coyle, City Clerk.

I explained to her that I had discussed the letter w/ Jeanne Pritchard, that we had looked at other provisions that permitted money to be requested in advance of making the copies of as in 2nd Code § 6257

"shall make the records avail to any person, upon payment of fees . . ."

which also suggests receiving payment ahead of ~~then~~ making copies, that therefore we feel a certain amount e.g. 25¢ or 50¢ of the copying cost, required when the request for copying is made, would be O.K. Section 8/008

which mentions that no conditions be imposed,  
etc, is followed by the sentence regarding  
copying ~~for~~<sup>costs</sup> of 10 cents. There is nothing  
that suggests that asking for copying costs  
in advance is a "condition" prohibited  
by the earlier clause. ~~She is~~ she said  
fine, she would follow that, but that she would  
still like something in writing. I explained  
that ~~was~~ the General Counsel was on  
vacation, and we needed more time to  
ponder the question. She said she had  
no problem with that, but <sup>that</sup> finally she would  
like something ~~in writing~~ in writing. I also  
told her that the figure, whether 25¢ or 50¢, should be  
applied uniformly to everybody.



F P P C

MAY 8 10 41 AM '89

## CITY of MODESTO

Office of City Clerk:

(209) 577-5396

801 11th Street, P. O. Box 642, Modesto, CA 95353

[TDD (209) 526-9211 Hearing and Speech Impaired only]

May 5, 1989

Mr. Kevin Braaten-Moen, Consultant  
Technical Assistance & Analysis Div.  
Fair Political Practices Commission  
P. O. Box 807  
Sacramento, CA 95804-0807

Dear Kevin:

This is to confirm our telephone conversations of <sup>Mary</sup> March 2 and 3.

Is it legal to ask for a deposit before embarking upon a huge copying job at a citizen's request?

As you will recall, a citizen has asked for a copy of all of the reports turned in by everyone involved in the last City of Modesto election. We have already copied about 125-150 pages, and are 1/4 - 1/3 finished. Of course, this is taking an enormous amount of time. We have had a couple of phone calls from the citizen, but have not heard from the person for a few days now. I have told the Clerk in my office who is doing the copying not to copy any more until we have another phone call because we have some questions, such as does she want PAC's, too. As I told you, the person was really upset with us when she called the next day after requesting the copies and learned that we had not finished the project.

We have had people call in the past and request a large number of copies, and then never come to pick them up and pay for them. However, this is the largest order we've ever had.

I feel that if we could estimate what the total charge for a large copying job might be, and then ask for a deposit of at least half that amount, it would be much more fair to all of the taxpayers who are having the pay for work that is not picked up.

Any help you can give us will really be appreciated.

Sincerely,

Norrine Coyle  
City Clerk & Auditor